

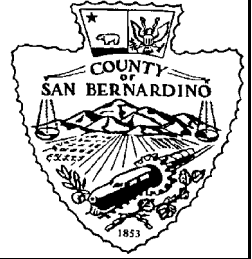
Department of Veterans Affairs

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Duty to Assist and Nexus Statements

History

In August 1999, a decision made by the United States Court of Appeals for Veterans Claims (CAVC or Court) changed the way the VA can help veterans and dependents develop claims. Prior to the Morton decision, the VA could order exams and request medical records to help the veteran or dependent establish their claims. After Morton, the VA could not assist the claimant or order exams until the claim was "well grounded."

Effective November 9, 2000, Public Law No. 106-475 eliminated the "well-grounded" requirement.

Veterans Claims Act of 2000 and Duty to Assist

The new law requires that the VA obtain any records in the VA's possession, or within any other Federal agency. The law also mandates the VA tell the claimant what evidence is needed to support their claim. The VA now must make several efforts to obtain any evidence identified by the claimant.

The VA also must provide a medical examination, if warranted.

Denied because of Well-Grounded issues?

If your claim was denied because of "well-groundedness" you have two years to ask the VA to reconsider that claim, if it was denied after the CAVC made the Morton decision. The VA will not automatically review denied claims, unless the claim is still under appeal.

Evidence to support a claim.

By law, the burden of proof falls on the veteran or dependent. Even though the VA is now required to look for evidence, this may take many months. You can help your claim and speed up the process if you can obtain supporting evidence.

Evidence can be any number of items: 1) The veteran's statements, especially those of combat veterans claiming a "combat related" injury or illness; 2) Statements from friends, relatives or anyone that has knowledge of your disability and its relationship to service; 3) Medical evidence. Any lay statements must fit certain criteria and are not always helpful. Some can be harmful to your claim. You should discuss any statements with your veterans representative before submitting it to the VA.

NEXUS! Service connected and DIC claims.

In many cases the veteran or dependent **must** provide a statement, preferably a medical statement, that links (nexus) the current disability with a disability incurred or worsened in service. Or, you **must** provide medical evidence to link a new condition to an existing service-connected disability (secondary service-connection). The nexus statement must be very clear to fit the criteria required by the VA. You need to discuss this issue with your representative, who can help you write a letter for your doctor or tell you what you need to do to get a nexus statement.

Problems and Pointers

You must be careful when you file a claim. Be sure it is well supported with evidence, and also able to be processed for its' merits. If you submit an application, VA then adjudicates the claim, if they deny it, based on the merits of the evidence, it may be very difficult to reopen the claim in the future. You may have to submit New and Material evidence, which can be difficult. Being inconsistent can also cause problems with your claim. Always go through the same representative or office so your representative knows what is being submitted.

What the VA will need

Type of VA Benefit	Evidence Needed
Service-Connected Disability Compensation	1. Medical evidence of a current disability.
	2. Evidence showing the disability was incurred in or aggravated during service. Sometimes, your written statement may suffice.
	3. Evidence showing a reasonable possibility that the disability you now have was caused by injury or disease which began or was made worse during military service. Nexus.
Non-Service-Connected Disability Pension	1. Verification of qualifying active service.
	2. Qualifying income.
	3. Medical evidence of disability.
Dependency & Indemnity Compensation (DIC)	1. Proof of death.
	2. Medical evidence showing that the disability causing or contributing to death first began or worsened during military service.
	3. Medical evidence showing the reasonable possibility that the disability causing or contributing to death was caused by injury or disease which began or worsened during military service.

Remember: If the VA requests records, it may delay your claim for months.

To increase your chances of an approval, see your veterans' representative so they can help you get the necessary documents and records to support your claim.

Veterans Service Representatives are available to discuss this or any veterans' issue with you.

Veterans Service Representatives are available to discuss claims or any veterans' issues with you. Call your closest office for the nearest location to you:

Monday through Thursday, 7:30 a.m. to 4:30 p.m.

Victorville: (760) 843-2790 San Bernardino: (909) 387-5516 Chino: (909) 465-5241

Part time offices in: Barstow, Yucca Valley and 29 Palms.